

1 meet 100 percent of that. The next couple of columns
2 said here's the actual, here's the actual objective.

3 Q. Achievement?

4 A. Achievement. Here's the percent that equals
5 which could be anywhere technically from 0 to 150 percent
6 of that payment. Here's what this means to you. With a
7 total at the bottom.

8 Q. So the places on the form, the worksheet form,
9 that had actuals and achievements and how that flowed
10 through in terms of the percentage calculation, those
11 were not filled out until the company could actually
12 report its financials and other objectives and otherwise
13 measure its results?

14 A. Correct. Or the group could measure theirs,
15 correct.

16 Q. That was done after the close of the fiscal
17 year?

18 A. Correct.

19 Q. And the fiscal year -- I think we all know
20 this -- so everybody is clear is April 1 through
21 March 31?

22 A. Of the following, yes, correct.

23 Q. So that just as an example, the fiscal year for
24 2004 ran from April 1, 2003, through March 31, 2004?



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1 A. That would be correct.

2 Q. So after the close of the fiscal year, it would
3 take some time to fill in that last little bit of the
4 worksheet to measure the objectives versus the actuals?

5 A. Right.

6 Q. When was that done?

7 A. Generally it was done after the close of
8 books -- I believe it takes easily about a month to close
9 the financial year books. That would usually be done in
10 the May time frame and the payouts usually happened -- it
11 varied between late May and mid-June. Sometime in that
12 time frame.

13 Q. You would receive the completed worksheets back
14 to you to show you how the AMIP was calculated, correct?

15 A. To show you what you would see in your paycheck
16 before it came. Usually they made it before your
17 paycheck came, not always.

18 Q. What was the amount of VC you received while at
19 DuPont? What did it range from?

20 A. At DuPont -- I can't remember my exact salary.
21 22 percent of my salary is what I was eligible for.

22 Q. What did that range up to? Do you remember the
23 highest amount of VC you received?

24 A. Off the top of my head, I do not remember, no.



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1 Q. Approximately.

2 A. I'm guessing \$20,000. That's a complete guess,
3 though, without looking at the numbers.

4 Q. You received an offer letter when you came over
5 to CSC, correct?

6 A. Yes.

7 Q. It's the offer letter that explained to you
8 what benefits and terms and conditions of employment you
9 were going to receive once you came over?

10 A. That's correct.

11 Q. That laid out the AMIP bonus?

12 A. Yes, it laid out what my eligibility would be
13 in the AMIP program.

14 Q. Other than that offer letter, you did not
15 receive anything else related to AMIP, correct?

16 A. At the start of my employment with CSC do you
17 mean?

18 Q. During this transitional time frame.

19 A. I believe that is correct.

20 Q. Did you have any discussions about AMIP with
21 anybody?

22 A. Yes. There was a number of town hall meetings
23 held by HR on the transition period as CSC usually does
24 when they bring in a new outsourcing arrangement, and



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1 you receive anything else regarding AMIP during your
2 employment with CSC and other than the worksheets?

3 A. No.

4 Q. Have you ever seen the AMIP plan itself or the
5 AMIP policy? Are you aware of any AMIP plan or policy
6 other than what you received as a manager?

7 A. There's something, I believe, online about the
8 AMIP program. I'm not sure if I actually received a
9 specific here's the full AMIP plan, corporate-type plan.
10 Most of my knowledge comes from the actual plan summary
11 and application to the Chemical Group.

12 Q. You have been in the Chemical Group the entire
13 time you have been at CSC?

14 A. No. I moved out of the Chemical Group when I
15 took this new assignment that we discussed previously.

16 Q. What group did you move into at that time?

17 A. I'm currently in the new business organization
18 of Global Infrastructure Services.

19 Q. That's separate from Chemical?

20 A. Completely separate from Chemical Group,
21 correct.

22 Q. So that would be up until August of 2004 you
23 remained in the Chemical Group?

24 A. Yes.



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1 Q. Have you ever seen the discretionary bonus
2 policy?

3 A. I believe I have, but I couldn't cite it, only
4 because they have always asked if there's anybody -- if
5 you want to do this, this is the process to use. It's
6 basically the communication we have had from HR.

7 Again, in my manager role it was always a
8 tool I could use for employees who did exceptional things
9 to contribute to the company.

10 Q. Have you ever awarded a discretionary bonus to
11 anybody?

12 A. I have not, no.

13 Q. Did you receive a discretionary bonus at any
14 point in time?

15 A. No, I did not.

16 (Deposition Exhibit No. 28 was marked for
17 identification.)

18 BY MR. SEEGULL:

19 Q. I'm now showing you what's been marked as
20 Exhibit 28. Do you recognize this?

21 A. It appears to be the offer letter.

22 Q. This is the offer letter that was given to you
23 when you were transitioned from DuPont to CSC, correct?

24 A. It looks like it, yes.



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1 Q. You were provided this on March 7th, 1997?

2 A. That's the date it says there.

3 Q. You never signed this, did you?

4 A. Yes, I did. Sure I did. I'm sure I did.

5 Q. Why do you assume that?

6 A. Because to get employment you had to sign this
7 and turn it in.

8 MR. SEEGULL: Do you have a signed version
9 of this, Mr. Wilson?

10 MR. WILSON: All I know is what I have with
11 me, and, no, I don't. But we may in the file.

12 THE WITNESS: I can tell you that I know I
13 had to sign this. To get a paycheck, you had to sign
14 this to accept the offer.

15 BY MR. SEEGULL:

16 Q. If it's not in your file, that would mean you
17 didn't sign it, correct?

18 A. I disagree. I know I signed this and sent it
19 in.

20 Q. This is the offer letter you were speaking
21 about before, correct?

22 A. Offer letter to come and work for CSC, yes.

23 Q. This is the one that you were talking about
24 that referred to the incentive plan?



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1 no.

2 Q. The decision that was made to change
3 eligibility to remove you from eligibility, that was made
4 across the board for certain salary levels.

5 A. I believe it was. While we're on the subject,
6 I don't believe it was also done consistently. I am
7 pretty sure, although not a hundred percent sure, that
8 there was at least one individual in my direct work group
9 at the same level who remained on the program with the
10 same role.

11 Q. You're speculating?

12 A. Yes.

13 Q. You're saying somebody received an AMIP but at
14 a lower level?

15 A. No. Somebody remained in the AMIP program at
16 the same role --

17 Q. And their level was raised?

18 A. No, I do not believe so.

19 Q. Who is this that you're talking about?

20 A. Robert Carden.

21 Q. Bob Carden?

22 A. Yes.

23 Q. What level was he at?

24 A. Same level I was, level 6 at the time.



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1 Q. You believe that, even though he was a level 6,
2 he was allowed to remain eligible for AMIP?

3 A. I believe so, yes.

4 Q. Why was that?

5 A. I do not know.

6 Q. Have you ever discussed that with him?

7 A. Not with him, no.

8 Q. Who have you discussed it with?

9 A. When we first talked about this in general,
10 we'd say is everybody going to be out of here, we believe
11 that he was not removed from the program.

12 Q. Who told you that?

13 A. It was never specifically told.

14 Q. This is really just hearsay and gossip?

15 A. Yes. But I believe we could find that
16 information out by pulling that record. Although it's
17 not my personal knowledge to see Bob's financial payment
18 records, but I believe we could find that it would be
19 true.

20 Q. It's just hearsay and gossip at this point?

21 A. Yes, at this point that would be true.

22 Q. And that has no bearing on your case, correct,
23 Bob Carden's --

24 A. Not specifically. You asked if it was done



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1 equitably and across all roles. My thing was I don't
2 know that it was. That's why I answered the way I did.

3 Q. But the decision was based upon levels,
4 correct?

5 A. That's what they led us to believe, yes.

6 Q. That's what you understand happened?

7 A. That's what I understand happened, yes.

8 Q. If there was some kind of exception made for an
9 outstanding individual performer, that doesn't mean that
10 the decision was made based upon level, correct?

11 A. That's probably correct, yes.

12 Q. You understood that AMIP was reserved for
13 senior-level managers, correct? That was the intent?

14 A. I understood that the AMIP program was eligible
15 for senior-level personnel and managers that were
16 contributing to the bottom line of the corporation, yes.

17 Q. And the intent was to make it consistent across
18 the board, correct?

19 A. The AMIP program in general?

20 Q. The change.

21 A. That's what they said the change was to do,
22 yes.

23 Q. Explain that. What did they tell you? This
24 was Bob Tattle?



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1 Q. You were first notified that you were no longer
2 eligible for AMIP verbally?

3 A. Well, verbally and with the letter at the same
4 time.

5 Q. It was at the same time?

6 A. Yes.

7 Q. In a meeting?

8 A. Yes. In a meeting with myself and Bob Tattle.

9 Q. Anybody else in that meeting?

10 A. No.

11 Q. Tell me everything you remember Bob telling
12 you.

13 A. Bob told me that the corporation has assessed
14 my eligibility for the AMIP program and I'm no longer
15 eligible and basically asked me to read the letter and he
16 asked me to sign the letter. And I said, well, I needed
17 some time to think about it, to assess signing the
18 letter. And that was about the end of the meeting.

19 Q. Are you saying he really didn't tell you much
20 at all, he just handed you the letter and asked you to
21 read and sign it?

22 A. He told me that they're trying to balance the
23 program out. Never specifically said about the Chemical
24 Group, per se. That's why I said no. But trying to get



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1 the AMIP program changed to put the -- change the level
2 of the things and I would no longer be eligible.

3 Q. After he did this, did you continue to stay in
4 the same role you were in as you were previously?

5 A. Yes.

6 Q. You continued to perform your job duties and
7 responsibilities as you had before?

8 A. Quite honestly, since I wasn't contributing, I
9 wasn't eligible anymore, I probably did not go the extra
10 mile as I had before to help achieve my part of the bonus
11 because my compensation changed at that point.

12 Q. So you worked less hard?

13 A. I guess you could say in certain ways, yes. I
14 didn't go over and above to help make sure we achieved
15 the financial goals.

16 Q. Because you no longer considered yourself as
17 having any role to play in achieving company financial
18 goals?

19 A. I believe now that I was being -- my
20 interpretation of the conversation was I was no longer
21 going to be compensated for work that would contribute to
22 achieving a certain level of compensation and that the
23 work that I did before that time up until that time to
24 contribute towards that goal was no longer necessary for



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CERTIFICATE OF REPORTER

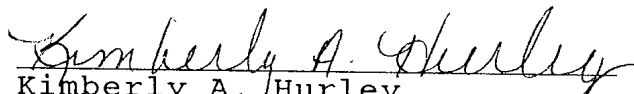
STATE OF DELAWARE)

NEW CASTLE COUNTY)

I, Kimberly A. Hurley, Registered Professional Reporter and Notary Public, do hereby certify that there came before me on the 16th day of February, 2006, the deponent herein, BRIAN L. MILLER, who was duly sworn by me and thereafter examined by counsel for the respective parties; that the questions asked of said deponent and the answers given were taken down by me in Stenotype notes and thereafter transcribed by use of computer-aided transcription and computer printer under my direction.

I further certify that the foregoing is a true and correct transcript of the testimony given at said examination of said witness.

I further certify that I am not counsel, attorney, or relative of either party, or otherwise interested in the event of this suit.


Kimberly A. Hurley

Certification No. 126-RPR
(Expires January 31, 2008)

DATED:

3/10/06

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

BRIAN MILLER, HECTOR CALDERON,)
CHARLES FOLWELL, DAWN M.)
HAUCK, KEVIN KEIR, ASHBY)
LINCOLN, KAREN MASINO, ROBERT)
W. PETERSON, SUSAN M. POKOISKI,)
DAN P. ROLLINS, and WILLIAM)
SPERATI,)
Plaintiffs,)
v.) C.A. No. 05-10-JJF
COMPUTER SCIENCES CORPORATION,)
Defendant.)

Deposition of KEVIN R. KEIR taken pursuant to notice at the law offices of Potter Anderson & Corroon, Hercules Plaza, 6th Floor, Wilmington, Delaware, beginning at 3:20 p.m., on Thursday, February 16, 2006, before Kimberly A. Hurley, Registered Merit Reporter and Notary Public.

APPEARANCES:

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ORIGINAL

A 163

1 Q. And Canada, the company in Canada?

2 A. SunWest Systems.

3 Q. So '93 came to the U.S.; transferred within

4 DuPont?

5 A. Yes.

6 Q. And then 1997 you were employed then by CSC?

7 A. Correct.

8 Q. Does anyone live with you at your present

9 address?

10 A. My wife and three kids.

11 Q. Have you ever been arrested?

12 A. No.

13 Q. Any convictions for a felony or misdemeanor?

14 A. No.

15 Q. Ever served in the military?

16 A. No.

17 Q. U.S. or otherwise?

18 A. No.

19 Q. When did you first contact an attorney to
20 handle your case against CSC?

21 A. I don't remember.

22 Q. Did anyone contact you?

23 A. We received a letter in the mail and said if
24 you're interested, contact the attorneys. And we did.



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1 A. DuPont Australia, '83.

2 Q. And then joined DuPont --

3 A. U.S.

4 Q. When?

5 A. '93.

6 Q. When did your employment end with DuPont?

7 A. In 1997 when we switched with CSC.

8 Q. What was your final position at DuPont?

9 A. I don't remember. Computer scientist, senior
10 computer scientist. Whatever the terminology -- I don't
11 actually remember the actual terminology.

12 Q. Do you know what level that was within DuPont?

13 A. I believe it was a 5.

14 Q. What did your job entail as a computer
15 scientist with DuPont?

16 A. With DuPont? It did change over the years.
17 When I left, I believe I was doing a job I'm doing now,
18 which is basically a computer specialist in a certain
19 area.

20 Q. Is it SAP?

21 A. SAP but a portion of SAP. I'm a specialist in
22 the data archiving.

23 Q. Were you in a bonus program in that job?

24 A. I was in the DuPont bonus --



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1 bonus. You'd meet every year anyway to go over your
2 performance and what was kind of expected over the next
3 year. Indirectly that was part of the bonus, I guess.

4 Q. When did you first start working at CSC?

5 A. Whenever everybody else transitioned over,
6 which I believe it was May '97.

7 Q. What was your first position with CSC?

8 A. Pretty much the same. I just kept -- it was
9 very little change from what I was already doing.

10 Q. What was your title?

11 A. Again, computer scientist, I believe, or senior
12 computer scientist. I think it was just computer
13 scientist. The terminology, the name was slightly
14 different at DuPont. I don't recall what it was.

15 Q. When you joined CSC, what group were you in?

16 A. They started off -- they changed names over the
17 years so many times. Horizon Initiatives.

18 Q. That was the initial group?

19 A. I believe so. Basically I was working at
20 DuPont in SAP and continued to do the same job.

21 Q. How did Horizon Initiatives -- is that what you
22 said?

23 A. I believe that's the first name they started
24 off with, yes.



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1 CSC, transitioned to CSC?

2 A. We have been at quite a lot of different
3 locations. I have been at Barley Mill. We have been
4 downtown here. Later on DuPont -- we moved out to
5 Newark, two locations down there. And mostly Barley
6 Mill.

7 Q. What was your starting salary at CSC?

8 A. I don't recall.

9 Q. Was it the same as when you were at DuPont?

10 A. I believe there's some adjustments made. I
11 couldn't tell you the exact number.

12 Q. Do you know your salary level, your SL number?

13 A. 5. I don't think that's changed.

14 Q. Is that what you are now?

15 A. I believe so, yes. I'm sorry. I believe it
16 was the same as now. I'm a 5 now.

17 Q. What's your current job function?

18 A. Pretty much the same. I'm a specialist in the
19 SAP archiving area. I have a group of -- it alternates
20 three to four people I'm responsible for. Most of them
21 are in the same area, SAP archiving. Like a team lead
22 and also their administrative lead.

23 Q. When you joined CSC, were you in the AMIP bonus
24 program?



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1 hot skills in that market. After a while those skills
2 cooled down or their competition got caught up and they
3 took the program away.

4 (Deposition Exhibit No. 33 was marked for
5 identification.)

6 BY MR. RAIMO:

7 Q. Do you recognize this Exhibit 33?

8 A. Yes.

9 Q. What is it?

10 A. It was the offer letter to me from CSC.

11 Q. You received this letter when you transferred
12 from DuPont to CSC, correct?

13 A. Yes.

14 Q. You understood from this letter that you would
15 be eligible to participate in AMIP, correct?

16 A. Correct.

17 Q. This letter did not guarantee you that you
18 would continue to be eligible to participate in AMIP the
19 rest of your career at CSC, correct?

20 MR. WILSON: Object to form. Go ahead.

21 A. It didn't say either way.

22 Q. But it didn't guarantee you that you would be
23 eligible to remain in AMIP.

24 A. Doesn't say either way. Yes. It doesn't say



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1 that.

2 Q. Do you see where it does guarantee you that you
3 would be --

4 A. No.

5 Q. You're currently employed with CSC as an
6 at-will employee, correct?

7 A. I'm not sure what that means.

8 Q. Means you don't have an employment contract
9 with CSC, you could terminate your employment with CSC at
10 any time and CSC can terminate your employment at any
11 time.

12 A. Correct.

13 Q. Before you transferred from DuPont to CSC, did
14 DuPont hold any meetings about the transfer?

15 A. Yes.

16 Q. When?

17 A. There was numerous meetings. It was a
18 traumatic time for a lot of people with not knowing what
19 it meant. There was meetings to discuss what the plan
20 was, whether some people were possibly going to
21 Accenture, some going to CSC, some might have even stayed
22 at DuPont. So there was various meetings.

23 Q. Who conducted those meetings?

24 A. I don't recall them all. I know Barry Day was



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1 qualified. I believe it was at a certain level.

2 Q. What were the CSC qualifications at that time,
3 in your understanding?

4 A. I don't recall.

5 Q. Do you contend that any of the discussions or
6 communications during this period of time of your
7 transition support your claim that you were entitled to a
8 prorated AMIP bonus for fiscal year '04?

9 A. The offer letter says they're going to prorate
10 it for the actual joining.

11 Q. But for fiscal year '04.

12 A. Not through these letters.

13 Q. Or communications during your transition from
14 DuPont to CSC.

15 A. Not that I recall.

16 Q. So after these meetings, you didn't have a
17 clear understanding of how AMIP worked?

18 A. In CSC realm?

19 Q. Right.

20 A. Probably not, no.

21 Q. You were told that you would be AMIP-eligible?

22 A. Yes.

23 Q. Did you understand that you would receive an
24 AMIP worksheet?



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1 A. No.

2 Q. Did you know how AMIP bonuses would be
3 calculated?

4 A. Not clearly. It seemed to change over the
5 years how it was calculated. The percentage makeup
6 changed over the years.

7 Q. What do you mean by that, the way your AMIP was
8 calculated would change year to year?

9 A. The makeup -- I was eligible up to 22 percent.
10 They would come up with a calculation based on a bunch of
11 different factors to say whether payout is going to be
12 hundred percent, 80 percent, 110 percent, whatever. If
13 it's 100 percent, then I would get 22 percent of my
14 salary. But the makeup of the breakdown, internal
15 breakdown, of how they came up with what that figure was
16 seemed to change over the years.

17 Q. According to you, what was the makeup? What
18 did that consist of?

19 A. I couldn't tell you directly. It seemed to be
20 a combination of financial figures. In the beginning
21 years a portion of it was more directly related to your
22 performance. In later years it just seemed to be
23 division and CSC as a total. Some of their financial
24 indicators, earnings per share, I think a return on



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1 investment, those kind of things.

2 Q. You're saying that the AMIP bonus essentially
3 was a percentage of your salary?

4 A. Yes. I was eligible up to a certain amount for
5 a percentage of my salary. Whether I got that percentage
6 was the AMIP's calculation.

7 Q. And that percentage was based on numerous
8 factors?

9 A. Correct. Yes.

10 Q. As you were saying, those factors could include
11 corporate objectives, group objectives?

12 A. Correct.

13 Q. Group objectives?

14 A. At one stage there was personal objectives,
15 too.

16 Q. And personal objectives.

17 A. But it changed. They changed over the years.
18 They changed the mix.

19 Q. The AMIP was always changing?

20 A. The mix of how the AMIP was calculated changed.

21 Q. But that would have an impact on the AMIP you
22 would receive?

23 A. Potentially, yes.

24 Q. Because not only factors would change, but



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1 possibly targets for those factors would change, too?

2 A. Correct.

3 Q. And the weight that each of those factors were
4 given would also change, too, over the years.

5 A. They could. I believe they did.

6 Q. They did? And in addition to the financial
7 factors, the nonfinancial factors could change, also; is
8 that correct?

9 A. Such as?

10 Q. Personal objectives.

11 A. Yes. I believe the last couple of years there
12 really wasn't personal objectives involved in the
13 calculation. It was more -- other than a group level.

14 Q. What would a personal objective entail?

15 A. I believe in the early years your rating would
16 have to be considered high. Your manager would have to
17 say yes, this part of it was you met this part.

18 Q. And group objectives?

19 A. Again, those were -- appeared to be just
20 financial objectives for the group.

21 Q. For your case, your SAP group, would you
22 consider you SAP group or --

23 A. We're a part of a large -- again, it's changed
24 so much over the years, the different groups and



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1 divisions we have been in. The SAP group was in
2 something called ASD. I forget what -- Application
3 Service Delivery. They have changed over the years so
4 many times. But I don't believe the SAP group itself was
5 a factor. It would be part of a larger group.

6 Q. More of a business unit rather than SAP
7 subgroup?

8 A. Yes.

9 Q. Some of the financial factors were placed into
10 an AMIP worksheet; is that correct?

11 A. Yes.

12 Q. As you stated, that would be possibly operating
13 income, margin?

14 A. Without looking at it, I couldn't tell you. I
15 remember the acronym was ESP at one stage. I believe ROI
16 was on there.

17 Q. DSO?

18 A. I don't recall. May or may not have.

19 Q. And these factors are based on CSC's financial
20 performance during the year.

21 A. I believe so. Or the group's performance.

22 Q. CSC's fiscal year runs between April 1st and
23 March 31st; is that correct?

24 A. I believe that's correct, yes.



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1 Q. So the factors that I just mentioned before
2 could change year to year.

3 A. Yes.

4 Q. Do you know what AMIP stands for?

5 A. Annual Management Incentive Plan, I believe.

6 Q. How do you know what AMIP is?

7 A. I recall seeing that somewhere. It was rarely
8 spelled out like that. It was just always AMIP.

9 Q. Can you point to any document where the terms
10 of AMIP are spelled out?

11 A. No.

12 Q. Can you point to any document where the
13 eligibility to participate in the AMIP is spelled out?

14 A. It might be somewhere on the CSC portal, but I
15 don't have --

16 Q. Do you know what the guiding plan is that
17 controls how CSC implements AMIP?

18 A. No.

19 Q. The company distributes its policies regarding
20 compensation electronically, correct, in addition to
21 being on the portal?

22 A. I believe so. I don't recall receiving a
23 communication about AMIP other than this. Sometimes we
24 would receive something in the mail. We didn't always



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1 frame?

2 A. I don't recall. I believe it was erratic when
3 you would receive it. It was not a consistent date or
4 time.

5 Q. So you wouldn't receive the AMIP worksheet
6 until you're well into the fiscal year?

7 A. I believe one year that was the case.

8 MR. WILSON: Objection.

9 THE WITNESS: I believe one year that was
10 the case. It came quite late.

11 Q. What year was that?

12 A. I don't recall.

13 Q. Do you know when it came?

14 A. No. Just that I knew it was well into the
15 year.

16 Q. There was no scheduled date by which CSC
17 provided a preliminary AMIP worksheet, right?

18 A. Not that I'm aware of.

19 Q. You did not expect to receive the worksheet for
20 the fiscal year on the first day of the fiscal year, did
21 you?

22 A. No.

23 Q. That never happened even once during all the
24 years you worked at CSC, correct?



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1 A. I don't believe so.

2 Q. In all the years you worked at CSC, you also
3 never received your preliminary AMIP worksheet for the
4 fiscal year in the first month of that fiscal year,
5 right?

6 A. That I don't recall.

7 Q. What is the earliest you ever received your
8 AMIP worksheet?

9 A. That I don't recall. Goes back to '97, so...
10 I think at the time we were so relieved that they were
11 carrying something on from the DuPont played a big part
12 in our compensation, I may not have paid much attention
13 to the AMIP side of it.

14 Q. Do you know if any employees who are eligible
15 for AMIP in fiscal year 2006 received their preliminary
16 AMIP worksheets?

17 A. I don't. I don't know.

18 Q. Until you received a preliminary worksheet, you
19 didn't know how your AMIP would be calculated, did you?

20 A. Correct.

21 Q. Nothing was official as to how your AMIP would
22 be calculated until and unless you received a preliminary
23 worksheet, correct?

24 A. Well, there were some years we didn't receive



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1 Q. When did you generally receive a worksheet when
2 you did receive one?

3 A. As I said, it depends if we're talking about
4 the preliminary ones or the final ones.

5 Q. The final.

6 A. A couple of times they were right around the
7 time we were paid it out, and I do believe a manager did
8 once sit down and say -- or present it to me, saying we
9 met the objectives, so you're eligible for the
10 22 percent.

11 Q. When did you generally receive the AMIP bonus?

12 A. That I don't remember. It was, I believe, in
13 April-June time frame.

14 Q. You wouldn't receive it until you were well
15 into the next fiscal year?

16 A. After the close of the previous year.

17 Q. Because it took CSC a while to wrap up its
18 prior fiscal year and close the books, correct?

19 A. I believe so.

20 MR. RAIMO: Go off the record.

21 (A recess was taken.)

22 BY MR. RAIMO:

23 Q. Mr. Keir, you were notified by CSC that you
24 were not eligible for participation in the AMIP program



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1 for 2004 fiscal year at some point in September, correct?

2 A. Right.

3 Q. At what point in September was this
4 communicated to you?

5 A. I believe -- the letter I believe was dated
6 September 11th.

7 Q. How was it sent to you?

8 A. I believe through the mail. I could be wrong.

9 Q. The U.S. mail or e-mail?

10 A. I don't recall, actually.

11 Q. Is that how you were first notified by CSC that
12 you were no longer eligible for the AMIP?

13 A. Yes.

14 Q. You understood from this communication that you
15 would not be receiving any AMIP bonus at all, correct?

16 A. I understood we weren't eligible for it
17 anymore.

18 Q. You wouldn't be receiving an AMIP bonus for
19 FY '04?

20 A. Seemed to indicate that, yes.

21 Q. You continued to perform your job after you
22 learned you were no longer eligible for AMIP for FY '04,
23 correct?

24 A. Correct.



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1 A. Joined in May.

2 Q. -- from DuPont to CSC.

3 Do you know anyone who was removed from
4 AMIP?

5 A. No. Other than leaving the company.

6 Q. Were you given an explanation as to why you
7 would not receive an AMIP bonus for FY '04?

8 A. I believe it's in the letter stating they just
9 reevaluated us and the plan.

10 Q. Anything in addition to the letter?

11 A. No.

12 Q. I'd like to discuss all the communications,
13 including the letter. I'm going to show you that now.

14 (Deposition Exhibit No. 35 was marked for
15 identification.)

16 BY MR. RAIMO:

17 Q. Do you recognize this document, Mr. Keir?

18 A. Yes.

19 Q. Exhibit 35?

20 A. Correct.

21 Q. What is it?

22 A. It's the letter notifying us that we weren't
23 eligible anymore.

24 Q. For AMIP?



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1 A. For AMIP.

2 Q. You were told that you were eligible for a
3 discretionary bonus up to \$5,000 to \$10,000, correct?

4 A. Yes.

5 Q. Depending on the circumstances as described in
6 the letter.

7 A. Correct.

8 Q. You were also told that you might be eligible
9 for AMIP in the future, correct?

10 A. Yes. If you met the CSC guidelines.

11 Q. I see at the bottom of the letter you had an
12 employee note. Did you write this note?

13 A. Yes.

14 Q. You recognize that the general economic climate
15 had worsened prior to your removal from AMIP, correct, at
16 CSC?

17 A. There was a general economic downturn in the
18 whole economy, yes, including CSC, yes.

19 Q. However, it was a bad year for CSC, 2003,
20 correct?

21 A. As most companies, correct.

22 Q. You appreciated that CSC needed to take action
23 to address that economic climate, correct?

24 A. Yes.



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1 Q. What is this?

2 A. That was my estimate to our lawyers what I
3 believe the damage was.

4 Q. This is just an estimate, right? You can't be
5 accurate or precise as to what exactly your AMIP
6 calculation would be?

7 A. This is the best we could come up with. If we
8 learned what the percentage payout from CSC was that
9 year, we could apply that to the 22 percent I was
10 eligible for to get a more accurate one.

11 Q. But you couldn't because you didn't receive an
12 AMIP worksheet that had --

13 A. Correct. I personally don't know what that
14 percentage was.

15 Q. You didn't know the factors, the weightings,
16 etcetera, that would go into calculating your final AMIP?

17 A. Correct.

18 Q. In fact, you could have come up or calculated
19 or estimated your AMIP damages in another way, couldn't
20 you?

21 A. Like I said, if we found out what the
22 percentage was that was paid to every eligible employee,
23 you could apply that to my 22 percent and that would be a
24 much more accurate one.



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1 Q. The way you did it here, the way you calculated
2 it here, could have taken a mean, couldn't you, rather
3 than the average or the median?

4 MR. WILSON: Object to the form.

5 BY MR. RAIMO:

6 Q. Yes? No?

7 A. Yes. You could do it a number of different
8 ways.

9 Q. You just picked this arbitrary way of
10 calculating your AMIP damages, but they should have been
11 for fiscal year 2004?

12 MR. WILSON: Object to the form.

13 BY MR. RAIMO:

14 Q. CSC can't even estimate what your fiscal year
15 2004 AMIP would have been because they don't have the
16 fiscal year 2004 AMIP worksheet, correct?

17 A. I don't have it.

18 Q. CSC doesn't have it, either.

19 MR. WILSON: Object to the form.

20 A. I don't know.

21 Q. Other than the amount of the AMIP bonuses that
22 you claim CSC wrongfully withheld, are you seeking to
23 recover any other damages from CSC?

24 A. Just the penalty per the Delaware law and the



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1 A. I believe it was 5.

2 Q. The company has a right to make decisions to
3 save money and increase profits, correct?

4 A. Correct.

5 Q. And make business judgments in order to carry
6 those out?

7 A. Correct.

8 Q. Your problem in this lawsuit is that you don't
9 think that you should have been removed from AMIP because
10 of your contributions to CSC, correct?

11 A. I'm not against that we were removed
12 necessarily. I was against that it was done halfway
13 through the year without prorating it. As I said in the
14 letter there, it seemed to be -- if the assumption was
15 that it was because of a downturn in the economic
16 climate, I thought another way could have been to reduce
17 the percentage for everyone, not just removed you.

18 Q. When do you think that percentage should have
19 been implemented?

20 A. It would have been -- if it was an economic
21 downturn, it should have been reflected in the final
22 calculation at the end of the year.

23 Q. Are you aware that the company started planning
24 the fiscal year 2004 AMIP removal early in the fiscal



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CERTIFICATE OF REPORTER

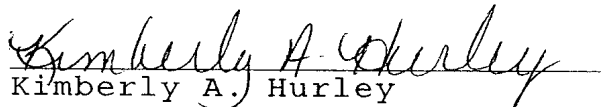
STATE OF DELAWARE)

NEW CASTLE COUNTY)

I, Kimberly A. Hurley, Registered Professional Reporter and Notary Public, do hereby certify that there came before me on the 16th day of February, 2006, the deponent herein, KEVIN KEIR, who was duly sworn by me and thereafter examined by counsel for the respective parties; that the questions asked of said deponent and the answers given were taken down by me in Stenotype notes and thereafter transcribed by use of computer-aided transcription and computer printer under my direction.

I further certify that the foregoing is a true and correct transcript of the testimony given at said examination of said witness.

I further certify that I am not counsel, attorney, or relative of either party, or otherwise interested in the event of this suit.


Kimberly A. Hurley

Certification No. 126-RPR
(Expires January 31, 2008)

DATED:

3/10/06

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

BRIAN MILLER, HECTOR CALDERON,)
CHARLES FOLWELL, DAWN M.)
HAUCK, KEVIN KEIR, ASHBY)
LINCOLN, KAREN MASINO, ROBERT)
W. PETERSON, SUSAN M. POKOISKI,)
DAN P. ROLLINS, and WILLIAM)
SPERATI,)
Plaintiffs,)
v.) C.A. No. 05-10-JJF
COMPUTER SCIENCES CORPORATION,)
Defendant.)

Deposition of CHARLES D. FOLWELL, JR.,
taken pursuant to notice at the law offices of Potter
Anderson & Corroon, Hercules Plaza, 6th Floor,
Wilmington, Delaware, beginning at 8:55 a.m., on Friday,
February 17, 2006, before Kimberly A. Hurley, Registered
Merit Reporter and Notary Public.

APPEARANCES:

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A 186

1 first question?

2 A. To both.

3 Q. What was the answer?

4 A. The answer was everybody at level 7 and below
5 was removed. So that answered the question that I was
6 not singled out, and that answered the question of level
7 8 and above is eligible. He gave the definition of
8 eligible.

9 Q. So you understand that the change that was made
10 to the AMIP plan was not directed at you particularly?

11 A. That's correct.

12 Q. That it was a company-wide decision that was
13 made to change the eligibility rules?

14 A. It was a decision not directed at me. Did that
15 answer the question?

16 Q. I don't think so.

17 MR. SEEGULL: Can you read the question
18 back?

19 (The reporter read back as instructed.)

20 A. I would say I understood it applied to my
21 group. I did not have any idea what company-wide meant.
22 I don't know what's going on in Europe and other places.

23 Q. Your group was which group, Chemical?

24 A. Right.



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1 payment any one particular year?

2 MR. WILSON: Object to form.

3 A. I would say that I believe that's possible. I
4 would not believe that's probable.

5 Q. I'm not asking you what you think is likely to
6 happen or unlikely to happen. I'm not asking you whether
7 or not generally AMIP payments were made, since we know
8 generally AMIP payments were made. I'm asking you
9 whether there was any guarantee that the company would
10 make any payments.

11 Isn't it true that the company never
12 guaranteed you any AMIP payments or any other employee?

13 MR. WILSON: Object to form.

14 A. I don't recall ever hearing the word
15 "guaranteed" used for AMIP payments.

16 Q. Or "promise" or any words to that effect,
17 correct?

18 A. Correct.

19 Q. What is your Social Security number?

20 A. 229-88-6937.

21 Q. Where were you born?

22 A. Newport News, Virginia.

23 Q. What's the date of your birth?

24 A. 9/25/56.



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1 lawsuits?

2 A. Yes.

3 Q. When did you first contact an attorney to
4 handle your case against CSC?

5 A. I would say the best answer I could give is
6 within a month or two after the September letter, but I
7 don't recall an exact date.

8 Q. How did you know who to contact?

9 A. I received a letter in the mail.

10 Q. Do you know who sent you that letter?

11 A. I do not recall, no.

12 Q. You don't recall at all who sent that letter?

13 A. I don't recall whose name was on the envelope
14 at the time. I believe it was associated with this firm,
15 but this firm has changed names.

16 Q. You think it was one of the lawyers that sent
17 you the letter?

18 A. I'm not sure.

19 Q. It may have been an employee?

20 A. That's what I think might have been who it was
21 from.

22 Q. Do you know which employee?

23 A. No.

24 Q. Do you have a guess as to which employee?



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1 like a bonus.

2 Q. How much was the bonus?

3 A. One year I recall it was \$800. Another one I
4 recall was a thousand. Those are the two I can recall.

5 Q. Once you received notification that you were no
6 longer eligible for the AMIP program in September of
7 2003, you understood at that time that you would not get
8 an AMIP payment?

9 A. Ever again.

10 Q. Is that what you understood?

11 A. Correct.

12 Q. Any other awards or honors?

13 A. Not that I recall.

14 Q. Tell me about the positions you have held at
15 DuPont. I understand you were there for 17 years?

16 A. Correct.

17 Q. That probably means you held a variety of
18 different positions; is that right?

19 A. Correct.

20 Q. Do your best to just tell me the different
21 positions you have held.

22 A. I supported and taught a language called
23 Mark IV. Then I supported and taught a language called
24 Focus. Then I worked on replacing DuPont's 401(k)



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1 system. We replaced that. I worked on building what was
2 called a billing information system, some new development
3 for DuPont.

4 Q. So these are all different projects you worked
5 on?

6 A. Correct.

7 Q. What was your position? Was it computer
8 scientist?

9 A. Yes.

10 Q. Computer programmer?

11 A. Yes.

12 Q. Are those the same things?

13 A. Yes.

14 Q. Did you basically hold the same position
15 throughout your time at DuPont, you just worked on
16 different projects?

17 A. At one point I was the project leader. At one
18 point I had some supervisory responsibilities. There
19 were fluctuations in roles and responsibilities
20 throughout those projects.

21 Q. How about the final position you held at
22 DuPont, what was that?

23 A. Final position? I was the technical leader of
24 the SAP R/2 Basis team.



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1 Q. Were you ever subject to DuPont's bonus plan?

2 A. No.

3 Q. Do you know if DuPont had a bonus plan?

4 A. Yes, I know.

5 Q. It had one?

6 A. Yes.

7 Q. What was it called?

8 A. I don't recall the formal name.

9 Q. We have heard various names. We have heard it
10 called incentive compensation. We have heard it called
11 variable compensation.

12 A. Yes.

13 Q. Which one rings a bell to you?

14 A. Both.

15 Q. But you never received any bonus while you were
16 at DuPont?

17 A. Not through that program.

18 Q. Through another program?

19 A. I recall getting bonuses for like at the end of
20 the project, the project was successful, you'd get a
21 check.

22 Q. What you call spot bonuses?

23 A. They would be part of a reward program of some
24 name. So you would be nominated for an award because you



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1 did some outstanding work.

2 Q. At some point you were transitioned over to
3 CSC.

4 A. Correct.

5 Q. And that was in July of '97?

6 A. Correct.

7 Q. That was along with all the other DuPont
8 employees that were in this group.

9 A. I believe it was with the majority. I don't
10 know what happened to everybody.

11 Q. Because you were not subject to the DuPont
12 bonus plan, were you told anything about whether CSC had
13 a bonus plan?

14 A. Yes.

15 Q. Tell me about those conversations.

16 A. The conversation I recall is my manager telling
17 me he was going to put me on CSC's bonus program after
18 being transitioned.

19 Q. Who was that?

20 A. Bill -- I'll recall his name eventually. I
21 don't recall it at the moment.

22 Q. This was your first manager after you started
23 with CSC?

24 A. He was my manager on the day we transitioned.



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1 Q. During this 1997 period.

2 A. Anybody else. I don't recall a conversation
3 with anybody else.

4 Q. Your offer letter set forth the terms and
5 conditions of your employment with CSC?

6 A. Okay.

7 Q. Is that right?

8 A. Was that a question?

9 Q. Yes.

10 A. That's my understanding.

11 Q. The offer letter didn't say anything about a
12 bonus plan, correct?

13 A. I do not recall anything mentioned about that.

14 Q. So that is correct?

15 A. It could have said you are not eligible for the
16 bonus plan. I don't recall it saying anything.

17 (Deposition Exhibit No. 39 was marked for
18 identification.)

19 BY MR. SEEGULL:

20 Q. Mr. Folwell, I'm now showing you what has been
21 marked as Exhibit 39. Is this the offer letter you
22 received for transitioning from DuPont to CSC?

23 A. It appears to be.

24 Q. You received this in March of '97?



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1 A. Okay.

2 Q. Is that right?

3 A. I don't know what day it arrived in my hand. I
4 see the date at the top of the page.

5 Q. You signed it on March 27th, 1997, correct?

6 A. Okay.

7 Q. Is that right?

8 A. That's my signature.

9 Q. That's the date you signed it?

10 A. Correct.

11 Q. You did receive it in March of '97?

12 A. They could have handed me this in February.

13 All I can tell you is that's my signature on March 27th.

14 Q. That's the day you signed it?

15 A. That's correct. I don't know the day I
16 received it.

17 Q. Do you have any reason to believe it was not in
18 March of '97?

19 A. No.

20 Q. Just to review the letter and tell me, does it
21 say anything about any bonus plan at CSC?

22 A. I don't see anything that says anything about a
23 bonus program.

24 Q. Do you have any documentation that you would



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1 AMIP plan?

2 A. I think I also once saw -- the sheet I referred
3 to earlier was the one that had my name at the top that
4 said here's how my bonus was calculated. I also recall
5 seeing a generic page that said here's how everybody's
6 AMIPs will be calculated this year, the weightings of
7 different categories.

8 Q. You saw a completed worksheet for yourself?

9 A. Correct.

10 Q. You think it was in the year 2001. And you saw
11 a generic worksheet for which year was that?

12 A. I do not know.

13 Q. What's your best estimate?

14 A. 2002.

15 Q. Again, you think you only saw one of those?

16 A. That's what I recall.

17 Q. Are you aware of any other documents or have
18 you seen any other documents that refer or relate to
19 AMIP?

20 A. Not that I recall.

21 Q. The reason you think you're entitled to an AMIP
22 payment for that period of time in 2003 that we have
23 talked about is because you had received prior AMIP
24 payments since you came over to CSC.



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1 A. Correct.

2 Q. That is, you assumed you would continue to
3 remain eligible for any AMIP payment because nobody had
4 told you otherwise.

5 A. Correct.

6 Q. You assumed that, if you were no longer
7 eligible, somebody would tell you you're no longer
8 eligible.

9 A. Correct.

10 Q. We have been talking about the word "AMIP."
11 AMIP is the bonus plan that we're talking about, correct?

12 A. Correct.

13 Q. Do you know what the letters of AMIP stand for?

14 A. I believe it stands for Annual Management
15 Incentive Program, but I'm not sure.

16 Q. Tell me how AMIP works.

17 A. You mean the last time I received it how it
18 worked?

19 Q. Yes.

20 A. Because I don't know how it works today.

21 Q. Right. During the period that you received it,
22 tell me how AMIP worked.

23 A. It worked differently different years.

24 Q. Explain that to me.



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1 A. My recollection is that first the program
2 worked on a combination of corporate or group goals and
3 personal objectives. And I can recall having personal
4 objectives and that was on the worksheet I received. My
5 personal objectives were listed with weights next to them
6 and how much they count towards the bonus. That's how I
7 believe it started for me.

8 The last year I received it there were no
9 personal objectives anymore. So it was all corporate or
10 group goals.

11 Q. If I understand you correctly, what you're
12 saying is the AMIP was a formula each year for how the
13 bonus would be calculated?

14 A. Yes.

15 Q. It wasn't a straight percentage, it was a
16 percentage that was calculated based upon different
17 factors?

18 A. My total was the same, but the weightings
19 within that total would change.

20 Q. When you say your total, you mean your total
21 maximum bonus percentage?

22 A. I'm not sure that the word "maximum" would
23 apply because the formulas allowed for you to receive
24 more than that. So you might call it a target number.



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1 Q. Your target percentage bonus stayed the same
2 year to year?

3 A. No.

4 Q. That changed over time?

5 A. I started at one number and was promoted and
6 raised to another number.

7 Q. What number did you start at?

8 A. I started at 10 percent and then I went to
9 22 percent.

10 Q. When did you go from 10 percent to 22 percent?

11 A. I will have to guess around 2000.

12 Q. Why did you go up in percentage?

13 A. Because my manager told me you are now being
14 promoted to this level and this percentage.

15 Q. What was the level you were being promoted to?

16 A. I went from a level 5 to a level 6.

17 Q. So your target changed in terms of your target
18 percentage, correct?

19 A. Correct.

20 Q. In addition to the target changing, the factors
21 of the bonus would change year to year?

22 A. Correct.

23 Q. I guess there were three categories of factors.
24 One category was corporate objectives?



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1 A. Could I hear all three --

2 Q. Was that one category of factors, corporate
3 objectives?

4 A. Okay.

5 Q. Yes?

6 A. I don't know that they're called corporate
7 objectives.

8 Q. What did you call --

9 A. Have objectives based on different levels of
10 the organization. Whether one of them applied to the
11 whole corporation or not, I don't recall.

12 Q. Weren't some of these things like earnings per
13 share?

14 A. Yes.

15 Q. Doesn't that apply to the whole corporation?

16 A. Again, I don't know what happens in Europe and
17 Asia and Africa, whether that's another corporation. I
18 don't know that.

19 Q. CSC has an earnings-per-share figure. You're
20 aware of that, right?

21 A. Okay.

22 Q. You're aware of that, correct?

23 A. No, I'm not aware of that.

24 Q. You know CSC has a stock price?



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